

**TOWN OF ROCKY HILL
PLANNING AND ZONING COMMISSION
MEETING OF APRIL 16, 2014**

CALL TO ORDER

Chairman Desai called the Wednesday, April 16, 2014, meeting to order at 6:33 p.m. in the Town Council Room, Rocky Hill Town Hall, 761 Old Main Street, Rocky Hill, Connecticut.

Present: Dimple Desai, Chairman
Kevin Clements, Vice Chairman
Victor Zarrilli, Secretary
Giuseppe Aglieco, Commissioner

Alternates: William O'Sullivan

Also: Kimberley A. Ricci, Dir. Planning & Building/Asst. ZEO
Eileen A. Knapp, Recording Secretary

1. PUBLIC HEARING

A. Proposed Zoning Regulation Amendments, Town of Rocky Hill, proposing to modify Rocky Hill Zoning Regulations, Section 2.2 Defined Terms, as follows:

1. DELETE:

“COMMERCIAL VEHICLE: Any motor vehicle with a commercial vehicle, livery, taxi or commercial trailer vehicle registration and identified by insignia and/or materials stored within or carried upon to be used for commercial purposes.”

“VEHICLE, COMMERCIAL: Any motor vehicle with commercial license plates or with lettering, markings, racks, or other apparent accessories indicating it is intended for use other than personal and/or recreational transportation.”

2. ADD: In Section 2.2 Definitions

**Gross Vehicle Weight Rating: GVWR is defined by the manufacturer of the vehicle,
Commercial Vehicle: Any vehicle or equipment regularly used to carry, deliver, handle or move goods in the conduct of a business, commerce, profession or trade, and which has two or more of the following characteristics:**

- 1. Exceeds (gross vehicle weight rating) GVWR of nine thousand pounds (9,000);**
- 2. Exceeds seven (7) feet in height from the base of the vehicle to the top;**
- 3. Exceeds twenty (20) feet in length;**
- 4. Has more than two (2) axles;**

5. Has more than four (4) tires in contact with the ground;
6. Used, designed and built to carry more the eight (8) passengers;
7. Designed to sell food or merchandise from the vehicle or trailer itself;
8. Banners signs, logos, advertising or markings identifying the owner or registrant, a trade, business, service or commodity;
9. Has modifications such as but not limited to platform rack, ladder rack, or mechanical equipment such as a hoist used to facilitate the carrying of goods or equipment;
10. Commercial plate or registration

The following types of vehicles when regularly used to carry, deliver, handle or move goods in the conduct of business, commerce, profession or trade shall be considered commercial vehicles: step vans, cargo vans, box trucks, flat bed or stake bed trucks, buses semitrailers, tractor trailers dump trucks wreckers and trailers for commercial purposes. The following types of equipment shall also be considered commercial vehicles: earth moving equipment, cement mixers trenching and pipe laying equipment and other similar type if contractors/construction/site work equipment.

Ms. Ricci said the Town of Rocky Hill Planning and Zoning Commission receives many complaints about commercial vehicles being parked in residential neighborhoods. This proposed change tries to put more detail into the Regulations to narrow down the focus as to what a commercial vehicle is.

Public

Mr. Tony Strastka of 374 New Britain Avenue asked if this Regulation change would affect vehicles being used for agricultural uses. Ms. Ricci said it would not.

Ms. Linda Gilbert of 730 Elm Street said if approved, she would like both these Regulation changes to include the exemption of vehicles used for agricultural uses.

Ms. Maryann Matway of 91 Brook Street asked if they were discussing temporary structures or just the commercial vehicles. Ms. Ricci said right now they are only discussing the commercial vehicle section of the Regulations.

Ms. Krista Mariner of 58 Farms Village Road asked if the Town Attorney has looked over this proposed change and approved it as far as agricultural vehicles being exempt. Ms. Ricci agreed with including the exemption for commercial vehicles being used for agricultural uses. The Regulations currently state that, "Provisions of this section shall not apply to vehicles, trailers or construction equipment used on a farm, as defined in the Zoning Regulations."

There was a discussion about whether or not a specific exemption for vehicles used in farming was needed in the proposed Regulation changes. Chairman Desai asked that they ask the Town Attorney about this issue.

Chairman Aglieco asked how this change would affect Regulations Sections 6-4-9c, that prevents the parking of vehicles with advertising on them within 40' of a street line. Ms. Ricci

said you can get a special permit to allow you to park a commercial vehicle on your property. Signs are also going to be addressed in the near future.

A MOTION was made by Commissioner Zarrilli to Recess the public hearing for the Proposed Zoning Regulation Amendments, Town of Rocky Hill, proposing to modify Rocky Hill Zoning Regulations, Section 2.2 Defined Terms, as follows:

a. DELETE:

“COMMERCIAL VEHICLE: *Any motor vehicle with a commercial vehicle, livery, taxi or commercial trailer vehicle registration and identified by insignia and/or materials stored within or carried upon to be used for commercial purposes.”*

“VEHICLE,COMMERCIAL: *Any motor vehicle with commercial license plates or with lettering, markings, racks, or other apparent accessories indicating it is intended for use other than personal and/or recreational transportation.”*

b. ADD: In Section 2.2 Definitions

Gross Vehicle Weight Rating: GVWR is defined by the manufacturer of the vehicle,

Commercial Vehicle: Any vehicle or equipment regularly used to carry, deliver, handle or move goods in the conduct of a business, commerce, profession or trade, and which has two or more of the following characteristics:

1. Exceeds (gross vehicle weight rating) GVWR of nine thousand pounds (9,000);
2. Exceeds seven (7) feet in height from the base of the vehicle to the top;
3. Exceeds twenty (20) feet in length;
4. has more than two (2) axles;
5. Has more than four (4) tires in contact with the ground;
6. Used, designed and built to carry more the eight (8) passengers;
7. Designed to sell food or merchandise from the vehicle or trailer itself;
8. Bears signs, logos, advertising or markings identifying the owner or registrant, a trade, business, service or commodity;
9. Has modifications such as but not limited to platform rack, ladder rack, or mechanical equipment such as a hoist used to facilitate the carrying of goods or equipment;
10. Commercial plate or registration

The following types of vehicles when regularly used to carry, deliver, handle or move goods in the conduct of business, commerce, profession or trade shall be considered commercial vehicles: step vans, cargo vans, box trucks, flat bed or stake bed trucks, buses semitrailers, tractor trailers dump trucks wreckers and trailers for commercial purposes. The following types of equipment shall also be considered commercial vehicles: earth moving equipment, cement mixers trenching and pipe laying equipment and other similar type if contractors/construction/site work equipment.

Seconded by Commissioner O'Sullivan. All were in favor, MOTION CARRIED UNANIMOUSLY.

B. Proposed Zoning Regulation Amendments, Town of Rocky Hill, proposing to add to the Rocky Hill Zoning Regulations, Section 3.4.8 as follows:

3.4.8 A single temporary structure, including membrane structures, no larger than 200 sq. ft. will be allowed on a Residentially Zoned Property for no more than 6 months in any 12 month period. Temporary structure permits shall be obtained from the Planning and Zoning Department.

Ms. Ricci said they are proposing this Regulation change for the same reasons as the previous change. They have been receiving complaints about these types of structures and with this proposed change; they are hoping to clarify the Regulations regarding the use of temporary structures. She sent these proposed changes to the Capital Region Council of Governments, the local planning agency for their approval and they found no apparent conflict with regional plans or policies. The Lower Connecticut River Valley Regional Planning Commission also approved the proposed change. Ms. Ricci noted that these Regulations changes for temporary structures would be exempt for agricultural uses.

An unnamed resident addressed the Commission and said her son owns a farm and he is planning to erect this type of structure so she wants to make sure it would be exempt from this Regulation. If he is not allowed to do this, that would be an undue hardship and she thought the Town was in favor of preserving Rocky Hill Farmlands. She is wondering why residents would not be allowed to keep these structures up permanently because personally, she and her husband own an RV that they would like to keep protected through the use of this kind of temporary structure. Not all homeowners can afford to build permanent structures. She said if this change is being made due to aesthetics, there are many other aspects of people's homes and properties that are aesthetically unattractive, which are not regulated. She suggested making the use of these structures allowable by a paid permit.

Mr. Francis Whalen of 302 Trinity Ridge Road is happy that agricultural uses are being exempt from this Regulation change but he wants to make sure that this doesn't change at any time in the future as Council Members and Town Staff change. He also agrees with the previous speaker that residents shouldn't be limited as to what they can have on their property if they pay their taxes. He said we can't continue to regulate everything everyone does.

Ms. Krista Mariner, 58 Farms Village Road said she asked the Commission to seriously consider the comments made by Mr. Whalen and Mrs. Mattway.

Commissioner Comments/Questions

Commissioner O'Sullivan asked if the Regulations included a definition of a temporary structure. Mrs. Ricci said they do not and the Building Department no longer allows for permits for certain types of structures and they feel this is a way to help regulate these temporary

structures. Commissioner O'Sullivan said he thinks the definition being proposed is very ambiguous and he would like to see a better defined definition.

Commissioner Zarrilli asked that the Town Attorney also be consulted about this proposed Regulation change.

A MOTION was made by Commissioner O'Sullivan to table the public hearing for the Proposed Zoning Regulation Amendments, Town of Rocky Hill, proposing to add to the Rocky Hill Zoning Regulations, Section 3.4.8 as follows:

3.4.8 A single temporary structure, including membrane structures, no larger than 200 sq. ft. will be allowed on a Residentially Zoned Property for no more than 6 months in any 12 month period. Temporary structure permits shall be obtained from the Planning and Zoning Department.

Seconded by Vice Chairman Clements. All were in favor, MOTION CARRIED UNANIMOUSLY.

2. CALL TO ORDER

Chairman Desai called the Planning and Zoning Commission regular meeting to order.

3. PUBLIC

Mr. Alan Mordhorst of Maple Street addressed the Commission regarding comments that were made during the Cumberland Farms public hearing on March 19th. Attorney Joe Williams, of Shipman and Goodwin, representing the applicant, took issue with two communications that Mr. Mordhorst submitted to Ms. Kim Ricci. It was stated that these e-mails were sent to Ms. Ricci and three members of the Commission from Mr. Mordhorst, who had served as the Chairman of the Planning and Zoning Commission for the first part of the public hearing. Mr. Mordhorst said Atty. Williams then contradicted himself saying the communications were only sent to a few select Commission members, which was not true. Atty. Williams claimed this was an improper ex parte communications and asked that the contents of the emails be disregarded. Mr. Mordhorst said Atty. Williams was misleading and incorrect. The headers of these e-mails clearly indicate that they were not submitted improperly but were addressed directly to the Town, via Ms. Ricci. In both e-mails, Mr. Mordhorst *expressly asked that Ms. Ricci forward the communications to any Commissioner's not included on the e-mail*. There was no attempt at ex parte communication by Mr. Mordhorst. Mr. Mordhorst also pointed out that the fact that he was the Planning and Zoning Commission Chairman for the first part of this public hearing is irrelevant to subsequent sessions of the Commission. At the time those communications were submitted, Mr. Mordhorst was a private citizen, resident, homeowner and taxpayer in the Town of Rocky Hill, and as a former Commissioner he is not disqualified from testifying at or submitting comments regarding any public hearings or public meeting. Mr. Mordhorst said Atty. Williams neglected to mention that at the beginning of the public hearing Mr. Mordhorst strongly suggested that they wait to begin the public hearing until the new Commission was

seated, which Atty. Williams chose not to do. Atty. Williams improperly stated that Mr. Mordhorst's communications were improper and the fact that Chairman Desai decided to exclude the emails from the record was in itself, inappropriate and improper and it was done without articulating a specific reason for doing so. Mr. Mordhorst noted that Attorney Williams also neglected to disclose to the Commission that his law firm, Shipman and Goodwin, and the engineering firm that conducted the traffic study for Cumberland Farms both have had an ongoing close professional relationship with the employer of one of the Commissioners, who has been personally working with Atty. Williams' law firm and the engineering firm on a site plan application before the Planning and Zoning Commission in another Town. Mr. Mordhorst also said that during the discussion period and prior to the vote there were repeated private discussions and whispering between Commissioners, which could be considered improper ex parte communication. This calls into question the appropriateness and propriety of these proceedings and vote on the Cumberland Farms application. He said he feels he is at least owed an apology from the Chairman and Commissioner who spoke negatively about his submissions.

Ms. Ricci said she did receive two e-mails from Mr. Mordhorst and per his request, she did copy it for all Commission members. Chairman Desai said at the time they felt Mr. Mordhorst should have come before the Commission or given his communications without contacting the members directly and that is why he didn't allow those communications to be considered. Vice Chairman Clements said he has attended sessions regarding ex parte communications and as members of the Commission they walk a fine line trying to remain impartial and not engaging in improper communications with any member of the public. He said it is also important to avoid the *appearance* of impropriety, which is what he was trying to do with regards to these emails. Vice Chairman Clements said he believes the actions taken by Mr. Mordhorst were done with the best intentions. He urged the public that any communications be sent directly to Town Staff and not to the Commission members.

Commissioner Zarrilli said he is the person Mr. Mordhorst referenced, who hired the Attorney and the Civil Engineering firm years ago for an application in front of another Town. He said there were no ex parte communications between himself and the Attorney or engineering firm regarding the Cumberland Farms application.

4. ADOPT THE AGENDA

Ms. Ricci asked that the following two items be added to the agenda:

- Set a Public Hearing on May 7, 2014 Proposed modifications to Special Permit approval for site plan for Richard Vicino, Town Center West
- Presentation by University of CT School of Law Students

A MOTION was made by Commissioner Zarrilli to add item D. to the Consent Agenda, Set a Public Hearing on May 7, 2014 Proposed modifications to Special Permit approval for site plan for Richard Vicino, Town Center West and to make Item C. and D. on the agenda, items D. and E., adding as item C., Presentation by University of CT School of Law

Students. Seconded by Commissioner Clements. All were in favor, MOTION CARRIED UNANIMOUSLY.

Ms. Krista Mariner said the Application for Town Center west is of great importance and she thinks that meeting should be televised, but according to the agenda, that meeting is going to be held in the Community Center. Mrs. Ricci said it is possible that the meeting will be held in the Town Council Room but if the Town Council needs it for a budget meeting, they get it first. Mr. Vicino said he prefers to have the public hearing on May 7th.

5. CONSENT AGENDA

A. Approve of Minutes and Working Notes March 19, 2014

B. Approve of Minutes and Working Notes April 2, 2014 Special Meeting;

C. Set a Public Hearing date of May 7, 2014 beginning at 6:30 p.m. in the Council Room, Second Floor Town Hall, 761 Old Main Street, Rocky Hill, CT 06067, Special Permit/Site Plan Modification, The Metropolitan District, Attn. Alan Pelletier, for proposed upgrades and additions to the Rocky Hill Water Pollution Control Facility located at 80 Goff Brook Lane in a A- Agriculture Zoning District; ID# 01-015;

D. Set a Public Hearing on May 7, 2014 Proposed modifications to Special Permit approval for site plan for Richard Vicino, Town Center West

A MOTION was made by Vice Chairman Clements to adopt the Consent Agenda. Seconded by Commissioner Zarrilli. All were in favor, MOTION CARRIED UNANIMOUSLY. The following items were approved on the Consent Agenda:

A. Approve of Minutes and Working Notes March 19, 2014

B. Approve of Minutes and Working Notes April 2, 2014 Special Meeting;

C. Set a Public Hearing date of May 7, 2014 beginning at 6:30 p.m. in the Council Room, Second Floor Town Hall, 761 Old Main Street, Rocky Hill, CT 06067, Special Permit/Site Plan Modification, The Metropolitan District, Attn. Alan Pelletier, for proposed upgrades and additions to the Rocky Hill Water Pollution Control Facility located at 80 Goff Brook Lane in a A- Agriculture Zoning District; ID# 01-015;

D. Set a Public Hearing date of May 7, 2014, Richard Vicino, Special Permit Modification for site plan, Town Center West.

6. AGENDA ITEMS

A. Presentation/Discussion/Request, Diane Martinelli, concerns on raising and breeding of fowl and livestock for home use and/or profit;

Mrs. Diane Martinelli of 63 Chapin Avenue addressed the Commission to ask the Commission for their consideration in approving a new regulation concerning animal husbandry in

residentially zoned districts. She submitted a handout to all the Commissioners with her proposal. She is specifically concerned about the raising and breeding of fowl and livestock for home use or profit when these animals do not match the traditional definition of “pets”. Many other Towns in Connecticut have Regulations that address this, but not Rocky Hill. Mrs. Martinelli has a neighbor that is raising chickens, roosters and pigeons right on their property line and the rooster crows every night starting at 3:00 a.m. and continuing until 6:00 or 7:00 a.m. The noise is loud and piercing and keeps them awake and they no longer tolerate this unhealthy lifestyle. The neighbors are unwilling to get rid of the roosters. According to Connecticut General Statutes, the Town is given the charge to look at the land in their town to determine what uses are appropriate in what zones and the Residential Zone is given the highest standards because this is where people live. He neighbor’s put a chicken coop on the property line just 35’ from Mrs. Martinelli’s bedroom window. According to the State, fowl are not considered “pets”.

Mrs. Martinelli went over the Regulations regarding the keeping of fowl and livestock that other towns in Connecticut have enacted. Although different, all the examples of Regulations she discussed include four main points:

- Acreage requirements
- Setback requirements
- Building or enclosure necessities for the animals
- Sanitary Condition requirements

When creating the proposed animal husbandry regulations, Mrs. Martinelli took into consideration local farms and how the new regulations would affect them. After all her research, she presented the Commission with her suggested wording for a new regulation, which she asked the Commission to consider. She said Rocky Hill needs this regulation to protect its residents.

Mrs. Ricci said she also looked at Trumbull’s Regulations regarding chicken coops, which she read into the record. This regulation prohibits roosters and free-range fowl. Coops can only contain 6 fowl and must be at least 35’ from all property lines. Mrs. Ricci said they are monitoring the situation and will keep the Commission updated.

Commissioner Aglieco asked if Animal Control or the Police Department has been notified of the problem. Mrs. Martinelli said she talked to a Rocky Hill Police Officer and was told that the only way to solve the problem was by asking that this Commission adopt this type of Regulation.

Vice Chairman Clements asked if the noise ordinance might apply in this case. Mrs. Martinelli said she doesn’t know what she will do if the noise doesn’t exceed the limit. She believes this Regulation amendment will solve the problem for all the residents of Rocky Hill.

Chairman Desai asked Mrs. Ricci to have the Town Attorney take a look at this suggested Regulation change. Mrs. Ricci said the Town Council is in the process of reviewing the Town Ordinance in respect to noise. Any Noise Ordinance must be approved by the DEEP.

B. Proposed temporary storage, Rocky Hill Board of Education, four (4) owner storage trailers, and three (3) Contractor storage trailers to be located on site during construction of portable classroom and interior repair and renovation work at West Hill Elementary School located at 95 Cronin Drive in a R-20 Residential Zoning District, ID# 08-147;

Mrs. Ricci said West Hill School is going to be undergoing a sprinkler system update during which time they will be asking the staff to vacate the building. They are relocating the staff entrance to the rear of the building, and will need construction trailers from July 1st to the end of August. A plan was presented indicating the location of the 3 contractor storage containers and the 4 owner storage trailers. Trailers will not be allowed to be parked on handicapped spaces.

Commissioner Zarrilli asked if the playground would be reopened for the first day of school. Mrs. Ricci said the whole project should be completed by the beginning of the school year. Commissioner Zarrilli asked that the contractor's storage shed could be moved out of the drive and into the parking spot area.

Commissioner Aglieco asked if the playground area would be fenced off. Mrs. Ricci said she believes there will be fencing.

A MOTION was made by Commissioner Zarrilli to approve the Proposed temporary storage, Rocky Hill Board of Education, four (4) owner storage trailers, and three (3) Contractor storage trailers to be located on site during construction of portable classroom and interior repair and renovation work at West Hill Elementary School located at 95 Cronin Drive in a R-20 Residential Zoning District including all staff comments and a date restriction that all trailers must be removed from the site no later than August 31, 2014 and that the proposed trailer shown on the driveway be moved to the parking spots to the west. Seconded by Commissioner O'Sullivan. All were in favor, MOTION CARRIED UNANIMOUSLY.

C. Presentation by University of CT School of Law Students

Attorney Dwight Merriam, Adjunct Professor of Law at the University of Connecticut addressed the Commission. His students have been attending the Planning and Zoning meetings to learn more about the day to day experiences of a Commission. Atty. Merriam thanked the Commission and the Town Planner; Mrs. Ricci. All the student's research will be sent to the Commissioners. He hopes to be able to do this again with his next class. The student gave presentations on the following topics including suggested Regulations for the Commission's consideration:

- Invasive running bamboo
- Small solar energy systems and geothermal wells
- Contractor storage in residential areas
- Accessory recreational uses in residential areas
- Digital signs

- Mixed-use development in village centers

D. Proposed Zoning Regulation Amendments, Town of Rocky Hill, proposing modifications to Section 2.2, to delete “Commercial Vehicle” and Vehicle, Commercial” and add, “Gross Vehicle weight Rating, and Commercial Vehicle” as aforementioned in Item 1 A ;

A MOTION was made by Commissioner O’Sullivan to table the Proposed Zoning Regulation Amendments, Town of Rocky Hill, proposing modifications to Section 2.2, to delete “Commercial Vehicle” and Vehicle, Commercial” and add, “Gross Vehicle weight Rating, and Commercial Vehicle” as aforementioned in Item 1 A. Seconded by Vice Chairman Clements. All were in favor, MOTION CARRIED UNANIMOUSLY.

E. Proposed Zoning Regulation Amendment, Town of Rocky Hill, proposing to add Section 3.4.8 to the Rocky Hill Zoning Regulations about temporary structures as aforementioned in Item 1 B;

A MOTION was made by Commissioner O’Sullivan to table the Proposed Zoning Regulation Amendment, Town of Rocky Hill, proposing to add Section 3.4.8 to the Rocky Hill Zoning Regulations about temporary structures as aforementioned in Item 1 B. Seconded by Vice Chairman Clements. All were in favor, MOTION CARRIED UNANIMOUSLY.

7. ANY OTHER BUSINESS

A. Review Ordinance 263-14, An Ordinance Declaring a Twelve (12) Month Moratorium on the establishment of Marijuana Production facilities and dispensaries

Mrs. Ricci said the Town Council has established an ordinance, which recently took effect, declaring a 12 month Moratorium on the establishment of Marijuana Production facilities and dispensaries in Rocky Hill. The State of Connecticut has created a Medical Marijuana Program Department of Consumer Protection. The Council is asking the Planning and Zoning Commission to study the impacts of medical marijuana on communities and possibly create regulations addressing this issue. Mrs. Ricci said Commissioners received copies of the Ordinance and the State Regulations and State Statutes regarding medical marijuana uses. She also included Regulations being used by two other communities in Connecticut, Plainville and Simsbury. The regulations treat these facilities similarly to package stores, regulating distances from schools and residences. She suggested the Commissioners look at this information. There are two types of facilities you can have, one that dispenses the product and one that actually grows the marijuana. Both types need to be locked facilities.

Chairman Desai asked if any money would be available in the budget to use toward a study. Mrs. Ricci said she did not think there would be any money in the budget for that. She said they could contact CRCOG and CCM to see if they have any research or information about what

other towns are doing. Chairman Desai asked that Staff come up with a time table for this project to be presented at the May 21st meeting.

8. COMMUNICATIONS

- List of contaminated sites from the DEEP webpage
- Newsletter from the Great Meadows Conservation Trust
- Information on due process
- Article on backyard wind turbines
- Information about Sign Regulations with respect to marketing in Rocky Hill from Scott Coleman and Business Now

Commissioner Zarrilli asked where they are with the Plan of Conservation and Development (POCD). Mrs. Ricci said there is \$50,000 in the budget now and they are asking for an additional \$50,000 to be used for the update of the POCD. She is working on the draft RFQ. Chairman Desai said he would like the Commission to see the RFQ before it goes out. He also suggested using other options like CRCOG to work in tandem with the consultant if possible.

Vice Chairman Clements said he would be willing to head a sub-committee to work on the POCD. Any Committee would include the opportunity for public participation.

9. APPROVE BILLS

None.

10. ADJOURN

A MOTION was made by Commissioner Zarrilli to adjourn the meeting. Seconded by Commissioner Clements. All were in favor, MOTION CARRIED UNANIMOUSLY.

Meeting adjourned at 10:07 p.m.

Respectfully Submitted,

Eileen A. Knapp
Recording Secretary